

Message Text

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TO AMEMBASSY MANAGUA

UNCLAS STATE 175836

E.O. 11652: N/A

TAGS: ETRD, NU

SUBJECT: NICARAGUAN QUESTIONS ON PROPOSED U.S. SYSTEM OF
GENERALIZED TARIFF PREFERENCES (GSP)

REFS: STATE 140727, MANAGUA 2956

DEPARTMENT OFFICERS MET WITH LUIS MEJIA, DIRECTOR OF THE
OFFICE OF INTERNATIONAL TRADE, MINISTRY OF ECONOMY ON
JUNE 26. MEJIA PRESENTED A LIST OF QUESTIONS AND REQUESTED
WRITTEN ANSWERS. THE FOLLOWING QUESTIONS AND ANSWERS WERE
PREPARED IN RESPONSE TO MEJIA'S REQUEST AND SHOULD BE
TRANSMITTED TO HIM IN TIME TO BE OF USE TO THE NICARAGUAN
TEAM WHICH PLANS TO VISIT WASHINGTON TO DISCUSS GSP. WHEN
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TRANSMITTING THE ATTACHED, EMBASSY SHOULD REPEAT THE
CAVEAT GIVEN TO MEJIA THAT THESE ARE INFORMAL PRELIMINARY
RESPONSES BASED ON THE HOUSE VERSION OF THE TRADE BILL.
DEFINITIVE ANSWERS ARE SUBJECT TO FURTHER CONGRESSIONAL

CONSIDERATION OF THE TRADE BILL AND RESOLUTION OF CERTAIN
TECHNICAL MATTERS WITHIN THE ADMINISTRATION.

1. Q. WILL THE CONSIDERATION OF PRODUCTS TO BE INCLUDED
IN THE SYSTEM BE DONE ON THE BASIS OF THE TSUS OR BTN,
GIVEN THE DEGREE OF COVERAGE OF EACH OF THE NOMENCLATURES?

2. Q. HOW MANY DIGITS WILL THE TARIFF ITEMS UNDER
CONSIDERATION COVER?

A. (TO QUESTIONS 1 AND 2) ACCORDING TO THE REPORT OF
THE HOUSE WAYS AND MEANS COMMITTEE, "THE TERM 'ARTICLE'
WILL IN GENERAL REFER TO THE FIVE-DIGIT TARIFF ITEM
NUMBERS OF THE TSUS. EXCEPTIONS MAY BE MADE TO THIS RULE
IF NECESSARY TO ENSURE THAT AN ARTICLE IS A COHERENT
PRODUCT CATEGORY."

3. Q. WILL THERE BE POSITIVE OR NEGATIVE LISTS? WHAT
WILL BE THE SITUATION WITH RESPECT TO THOSE TRADITIONAL
PRIMARY PRODUCTS WHICH UNTIL NOW HAVE BEEN SUBJECT TO
QUANTITATIVE RESTRICTIONS?

A. UPON ENACTMENT OF THE TRADE BILL, THE EXECUTIVE
AGENCIES OF THE U.S. GOVERNMENT WILL SUBMIT A LIST OF
PRODUCTS TO THE TARIFF COMMISSION, AN INDEPENDENT AGENCY,
FOR ITS ADVICE WITH REGARD TO THE INCLUSION OF THESE
COMMODITIES IN OUR GSP. THE COMPOSITION OF THE FINAL
LIST WILL BE BASED ON TARIFF COMMISSION ADVICE AS TO THE
ANTICIPATED IMPACT ON DOMESTIC PRODUCERS, INFORMATION AND
ADVICE FROM OTHER GOVERNMENT AGENCIES AND UPON THE RESULTS
OF PUBLIC HEARINGS. MANY CONSIDERATIONS ARE INVOLVED; ALL
ARE IMPORTANT.

GENERALIZED TARIFF PREFERENCES WILL APPLY PRINCIPALLY
TO IMPORTS OF SEMI-MANUFACTURES AND MANUFACTURES. A
SELECTED NUMBER OF AGRICULTURAL AND PRIMARY PRODUCTS MAY
ALSO BE INCLUDED.

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WE CAN NOT BE MORE SPECIFIC BECAUSE THE COMPOSITION OF
THE LIST MAY BE INFLUENCED BY CHANGES, SHOULD THEY OCCUR,
IN THE TRADE BILL.

WE NEVERTHELESS HAVE UNDER PRELIMINARY EXAMINATION
PRODUCTS AND PRODUCT CATEGORIES IN LIGHT OF THE CURRENT
PROVISIONS OF THE BILL. THIS WORK WILL NOT BE COMPLETED
UNTIL AFTER THE BILL IS ENACTED. WE ARE TAKING INTO
ACCOUNT THE IMPORTANCE OF POTENTIAL ITEMS TO THE LATIN
AMERICAN-CARIBBEAN REGION AND OTHER DEVELOPING AREAS. WE
MUST ALSO CONSIDER THE PROBABLE IMPACT OF PREFERENCES ON
OUR DOMESTIC ECONOMY. WHILE DOMESTIC IMPACT CONSIDERA-
TIONS MUST REMAIN LARGELY AN INTERNAL MATTER, WE WILL

RELY HEAVILY ON THE INFORMATION AND ADVICE WE RECEIVE FROM FOREIGN GOVERNMENTS CONCERNING THEIR NEEDS AND PREFERENCES. PRODUCTS SUBJECT TO QUANTITATIVE RESTRICTIONS TECHNICALLY MAY BE CONSIDERED FOR GSP TREATMENT UNDER THE HOUSE VERSION OF THE BILL UNLESS THEY ARE SUBJECT TO IMPORT RELIEF MEASURES UNDER EITHER THE PROPOSED TRADE REFORM ACT OR THE 1962 TRADE EXPANSION ACT. HOWEVER, PRESIDENT NIXON INDICATED WHEN

TRANSMITTING THE TRADE BILL TO CONGRESS THAT IT IS OUR INTENTION TO EXCLUDE FROM GSP CERTAIN SENSITIVE ITEMS INCLUDING TEXTILES, SHOES, WATCHES, AND CERTAIN STEEL PRODUCTS ALONG WITH PRODUCTS SUBJECT TO OUTSTANDING ORDERS RESTRICTING IMPORTS.

4. Q. ASSUMING THAT THE U.S. ESTABLISHES PRODUCTS AS SENSITIVE OR SEMI-SENSITIVE, ON WHAT BASIS WILL THIS BE DETERMINED AND HOW WILL THIS BE ADMINISTERED?

A. WE DO NOT INTEND TO ESTABLISH CATEGORIES OF SENSITIVE AND SEMI-SENSITIVE PRODUCTS FOR ADMINISTRATIVE PURPOSES. THE PROVISIONS OF OUR GSP LEGISLATION ARE TO BE APPLIED UNIFORMLY TO ALL ELIGIBLE PRODUCTS. WE DO INTEND TO EXCLUDE AB INITIO CERTAIN SENSITIVE ITEMS SUCH AS TEXTILES AND SHOES.

5. Q. HOW WILL TEXTILES BE TREATED UNDER GSP?
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6. Q. WHAT WILL BE THE IMPLICATIONS OF THE MFA ON GSP AND WHAT WILL BE THE SITUATION OF NICARAGUA WITH RESPECT TO A BILATERAL TREATY ON TEXTILES WITH THE U.S.?

A. (TO QUESTIONS 5 AND 6) AS NOTED IN THE ANSWER TO QUESTION 3 IT IS OUR INTENTION TO EXCLUDE FROM GSP CERTAIN SENSITIVE ITEMS INCLUDING TEXTILES. THE QUESTION OF A BILATERAL TEXTILE AGREEMENT WAS DISCUSSED AT LENGTH BY ANTHONY JURICH DURING HIS VISIT TO MANAGUA IN MID-JULY.

7- Q. HOW IS THE DEFINITION OF APPRAISED VALUE ARRIVED AT IN THE U.S.?

A. THE APPRAISED VALUE OF AN ARTICLE UNDER U.S. CUSTOMS PROCEDURES IS NORMALLY THE FOB VALUE AT THE PORT OF EXPORT TO THE UNITED STATES. THE LAW, HOWEVER, PROVIDES FOR EIGHT OTHER BASES OF VALUATION DEPENDING UPON THE CIRCUMSTANCES. THE APPRAISED VALUE FOR GSP PURPOSES WILL BE DETERMINED IN EXACTLY THE SAME WAY AS IN THE CASE OF ANY OTHER MERCHANDISE.

8. Q. WOULD THE VALUE OF THE CONTENTS OF THE ARTICLE BE APPRAISED IN THE SAME WAY IN ORDER TO DETERMINE WHETHER

THE DIRECT COSTS OF PROCESSING OPERATIONS PERFORMED IN THE BENEFICIARY COUNTRY EQUAL OR EXCEED THE PRESCRIBED PERCENTAGE OF THE APPRAISED VALUE.

A. NO. ACCORDING TO EXISTING U.S. CUSTOMS PROCEDURES, THE VALUE OF MATERIALS OR COMPONENTS IS TAKEN TO BE THE VALUE OF THE MERCHANDISE WHEN FIRST IMPORTED INTO THE

BENEFICIARY COUNTRY OR, ALTERNATIVELY, THE PRICE WHEN FIRST SOLD WITHIN THAT COUNTRY.

9. Q. WHAT ELEMENTS COULD BE COUNTED AS "DIRECT COSTS OF PROCESSING OPERATIONS"?

A. THE SECRETARY OF THE TREASURY WILL PRESCRIBE REGULATIONS DEFINING "DIRECT COSTS." ACCORDING TO PRESENT U.S. CUSTOMS PRACTICES "DIRECT COSTS" ARE COSTS RELATED UNCLASSIFIED

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TO PRODUCING THE ARTICLE INCLUDING LOCALLY PRODUCED MATERIALS, NORMAL PROFIT, AN APPROPRIATE PORTION OF GENERAL OVERHEAD, AND A REASONABLE LEVEL OF EXECUTIVE COMPENSATION.

10. Q. ARE THE COSTS OF INSURANCE AND FREIGHT COUNTED AS COMPONENT ELEMENTS OF THE VALUE ADDED?

A. U.S. APPRAISED VALUE DOES NOT INCLUDE THE COSTS OF INSURANCE AND FREIGHT TO THE U.S. IN A CALCULATION OF THE COSTS OF MATERIALS AND COMPONENTS IMPORTED INTO THE BENEFICIARY COUNTRY THE COSTS OF INSURANCE AND FREIGHT WILL GENERALLY BE INCLUDED.

11. Q. WHAT WILL BE THE ELEMENTS OF THE RULES OF ORIGIN?

A. AN ARTICLE MUST BE SHIPPED DIRECTLY FROM THE BENEFICIARY COUNTRY.

VALUE ADDED IN THE BENEFICIARY COUNTRY MUST EQUAL OR EXCEED A CERTAIN FIXED MINIMUM PERCENTAGE OF THE APPRAISED VALUE OF THE ARTICLE AT THE TIME OF ITS ENTRY INTO THE U.S. THE PERCENTAGE MAY BE VARIED INFREQUENTLY BETWEEN 35 AND 50 PERCENT BUT AT ANY GIVEN TIME, ONLY ONE PERCENTAGE WILL APPLY UNIFORMLY TO ALL ELIGIBLE ARTICLES.

VALUE ADDED INCLUDES THE VALUE OF MATERIALS PRODUCED IN THE BENEFICIARY COUNTRY PLUS THE DIRECT COSTS OF PROCESSING OPERATIONS PERFORMED IN THAT COUNTRY.

THE SECRETARY OF THE TREASURY WILL PRESCRIBE THE MINIMUM PERCENTAGE. HE WILL ALSO PRESCRIBE REGULATIONS GOVERNING

DIRECT IMPORTATION AND DETERMINE WHAT CONSTITUTES
DIRECT COSTS INCLUDING THE TREATMENT OF EXECUTIVE
COMPENSATION.

12. Q. CAN COUNTRIES BENEFIT FROM CUMULATIVE TREATMENT?

A. THE BILL ALLOWS FOR CUMULATIVE ORIGIN TO A LIMITED
EXTENT. THE PRESIDENT MAY PROVIDE THAT ALL MEMBERS OF
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AN ASSOCIATION OF COUNTRIES FOR TRADE PURPOSES, I.E., A
FREE TRADE AREA, CUSTOMS UNION, OR ASSOCIATION LEADING
TO THE FORMATION OF SUCH AN AREA OR UNION, MAY BE TREATED
AS ONE COUNTRY FOR THE PURPOSE OF THIS TITLE, PROVIDED
EACH MEMBER OF THE ASSOCIATION IS ELIGIBLE FOR INDIVIDUAL
DESIGNATION AS A BENEFICIARY COUNTRY. WHERE AN ASSOCIA-
TION OF COUNTRIES IS DESIGNATED A BENEFICIARY, EXPORTS
FROM ALL MEMBER COUNTRIES OF THE ASSOCIATION SHALL BE
TREATED AS EXPORTS OF THE ASSOCIATION, BOTH FOR THE
PURPOSE OF THE VALUE-ADDED REQUIREMENTS OF SECTION
503(B) AND FOR THE PURPOSES OF THE COMPETITIVE NEED
LIMITATION IN SECTION 504(C).

13. Q. WILL TERRITORIES ASSOCIATED WITH THE U.S.
APPLY THE GSP.

14. Q. WILL THE ASSOCIATED TERRITORIES ALSO BENEFIT
FROM GSP?

A. (TO QUESTIONS 13 AND 14) THE PROPOSED U.S. GSP WOULD
BE APPLIED ANYWHERE WITHIN THE CUSTOMS TERRITORY OF THE
U.S. (THIS INCLUDES PUERTO RICO). INSULAR POSSESSIONS
SUCH AS GUAM AND THE VIRGIN ISLANDS WOULD NOT APPLY THE
GSP TO THEIR OWN IMPORTS. THE BILL SPECIFICALLY PROVIDES
THAT THESE INSULAR POSSESSIONS MAY BE DESIGNATED AS
BENEFICIARIES OF OUR GSP.

15. Q. DOES THE U.S. EXPECT TO CONSULT ON GSP-PRODUCT
LISTS WITHIN OR OUTSIDE OF THE SCCN?

A. WE HAVE AGREED TO CONSULT IN THE SCCN AFTER PASSAGE
OF THE TRADE BILL ON LATIN AMERICAN REQUESTS FOR INCLU-
SION OF PRODUCTS IN THE PRODUCT LISTS WHICH WE WILL SEND
TO THE TARIFF COMMISSION. WE WILL BE GLAD TO HAVE IN-
FORMAL BILATERAL CONSULTATIONS AT THE TECHNICAL LEVEL
WITH ANY COUNTRY WHICH SO DESIRES.

16. Q. HOW MUCH TIME WILL BE NEEDED FOR PREPARATIONS
BEFORE CONSULTATIONS ON PRODUCT LISTS CAN BEGIN?

A. PRELIMINARY WORK ON PRODUCTS LISTS IS NOW UNDERWAY
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IN THE U.S. GOVERNMENT, TAKING INTO ACCOUNT THE LISTS WHICH WE ARE RECEIVING FROM SEVERAL LATIN AMERICAN COUNTRIES. WE HOPE TO HAVE THESE INTERNAL PREPARATIONS ON PRODUCT COVERAGE COMPLETED SHORTLY AFTER ENACTMENT OF THE LEGISLATION, AT WHICH TIME WE WILL BE PREPARED TO CONSULT WITHIN THE SCCN FRAMEWORK.

17. Q. WHAT ASSURANCES ARE THERE THAT A PRODUCT INCLUDED IN THE U.S. GSP WILL REMAIN ELIGIBLE?

A. WE CAN GIVE NO FORMAL ASSURANCES OF HOW LONG AN ITEM WILL REMAIN ELIGIBLE UNDER GSP. GSP IS A VOLUNTARY, TEMPORARY AND NON-RECIPROCAL UNDERTAKING AND DOES NOT CONSTITUTE A BINDING COMMITMENT. IN PRACTICE, MOST ELIGIBLE IMPORTS FROM A SMALL COUNTRY LIKE NICARAGUA ARE LIKELY TO BE ELIGIBLE THROUGHOUT THE TEN-YEAR DURATION OF GSP.

18. Q. IF PRODUCTS ARE ELIGIBLE UNDER THE GSP OF ANY DONOR COUNTRY, CAN THEY BE NEGOTIATED IN THE MTN?

A. THE U.S. FIRMLY BELIEVES THAT GSP ELIGIBILITY

SHOULD NOT REPRESENT AN IMPEDIMENT TO MFN TARIFF REDUCTIONS IN THE CONTEXT OF THE MTN. GSP IS TEMPORARY AND NON-BINDING WHILE MFN TARIFF REDUCTIONS ARE MORE LASTING. GIVEN THAT MFN TARIFF REDUCTIONS WILL BE STAGED OVER A PERIOD OF TIME, GSP PREFERENCE MARGINS SHOULD REMAIN SUBSTANTIAL DURING THE TEN-YEAR LIFE OF THE PROGRAM. KISSINGER

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